

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MAKS, INC. GENERAL TRADING AND)
CONTRACTING CO.,)
Plaintiff / Counter-Defendant,)
No. 3:10-CV-443
(VARLAN/GUYTON)
v.)
STERLING OPERATIONS, INC.,)
Formerly known as)
EOD TECHNOLOGY, INC.,)
Defendant / Counter-Plaintiff.)

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and an Order of Referral [Doc. 436], to determine the Defendant's Motion to Approve Bond and for a Stay of Execution Pending Appeal [Doc. 429].

The Defendant has filed a supersedeas bond [Doc. 407] in the amount of \$2,300,000.00, against the Plaintiffs' Judgment in the current amount of \$1,968,001.00 [Doc. 336]. The Court previously found that this bond was adequate to stay execution, but only for the time period pending disposition of Defendant's Motion for New Trial. [Doc. 423]. Thereafter, the Motion for New Trial was denied. [Doc. 427]. A notice of appeal was filed by the Defendant on November 4, 2013. [Doc. 428].

The Court finds that the amount of the Judgment has not changed since the Court's initial ruling that the supersedeas bond was sufficient to stay execution. The Court recognizes that the Plaintiffs have moved for attorneys' fees, costs, and pre- and post- judgment interest. The

District Judge has found that an award of attorneys' fees, costs, and pre- and post- judgment interest is appropriate, but he has referred the issue to the undersigned to determine the amount of such. The amounts of such recovery proposed by the parties vary widely, and each party strongly contests the other's proposed amount. The Court's ruling on this issue will increase the amount of the Judgment, but the Court finds that, at this juncture, the amount of the increase is far from certain. When this issue is ruled upon and a sum-certain amount is determined, only then would it be appropriate for the Court to reconsider the amount of the bond.

Therefore, the Motion to Approve Bond and for a Stay of Execution Pending Appeal [Doc. 429] is **GRANTED**, and all pending and future executions, all pending and future garnishments, all pending and future discovery relating to the Judgment in this case are **STAYED**.

The Plaintiffs **SHALL HAVE LEAVE** to move for an increase in the amount of the supersedeas bond after the undersigned issues a Report and Recommendation on the amount of the attorneys' fees, costs, and pre- and post-judgment interest *and* the District Judge issues a Memorandum and Order ruling upon the Report and Recommendation.

IT IS SO ORDERED.

ENTER:

/s H. Bruce Guyton
United States Magistrate Judge